

IN THE SUPREME COURT OF TENNESSEE
SPECIAL WORKERS' COMPENSATION APPEALS PANEL
AT NASHVILLE

FILED

April 22, 1998

Cecil W. Crowson
Appellate Court Clerk

RALPH D. WEST,)	
)	
Plaintiff/Appellee)	SMITH CHANCERY
)	
v.)	NO. 01S01-9704-CH-00099
)	
SONIC DRIVE-IN and)	HON. C. K. SMITH,
ANCO INTERSTATE INSURANCE)	CHANCELLOR
COMPANY,)	
)	
Defendants/Appellants)	

For the Appellants:

W. Stuart Scott
Stewart, Estes & Donnell
SunTrust Center, 14th Floor
424 Church Street
Nashville, TN 37219

For the Appellee:

Jacky O. Bellar
212 Main Street
P.O. Box 332
Carthage, TN 37030

MEMORANDUM OPINION

Members of Panel:

Justice Frank F. Drowota, III
Senior Judge John K. Byers
Special Judge William S. Russell

AFFIRMED AS AMENDED

BYERS, Senior Judge

OPINION

This workers' compensation appeal has been referred to the Special Workers' Compensation Appeals Panel of the Supreme Court in accordance with Tenn. Code Ann. § 50-6-225(e)(3) for hearing and reporting to the Supreme Court of findings of fact and conclusions of law.

This case is here in a different position than most appeals.

On October 31, 1995, a judgment awarding the plaintiff compensation was entered in the Chancery Court of Smith County. After review by a Special Workers' Compensation Appeals Panel and the Supreme Court, the judgment entered in Smith County was modified and affirmed. On December 4, 1996, an order in conformity with previous proceedings was entered in Smith County. Among other things, the final judgment provided that the defendants would furnish medical treatment for the plaintiff, required as a result of the injury subject to the proceedings hereafter had.

On December 6, 1996, the plaintiff filed a motion for medical treatment and alleged the defendants had refused to furnish medical treatment as required. The plaintiff asked the trial court to order the defendants to furnish a list of three physicians from which he could select a physician for treatments.

The defendants responded to the motion and say they are willing to furnish medical treatment to the plaintiff for treatments necessary to treat the plaintiff for residual problems from the November 27, 1991 accident which is the subject injury in this case. The defendants asked the court to order the plaintiff to produce his medical records and submit to an examination by a specialist to make an initial determination of whether the complaints of the plaintiff are related to the November 27, 1991 injury.

In response to the pleadings, the trial judge entered the following order:

This cause came on to be heard on this the 21st day of February, 1997, upon the motion of Plaintiff for a panel of three (3) physicians to treat the Plaintiff's injuries received at Sonic Drive-In, to-wit, ruptured disc at L5-S1.

And after argument, the Court is of the opinion that Plaintiff should execute a release for Defendant to obtain any medical related to his back injury since November, 1991, within five (5) days and that Defendant shall furnish the panel of treating physicians to Plaintiff from Smith or contiguous counties.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the Defendant shall furnish to Plaintiff a panel of treating physicians from Smith or contiguous counties and Plaintiff shall furnish to Defendant a release

authorizing the medical release of all records in any way connected with his 1991 injury or aggravation or re-injury thereof.

The defendants, understandably, wish to not be required to furnish medical care for anything other than those problems related to the injury of November 27, 1991 for which the defendants are liable.

We are of the opinion that the order of the trial judge implicitly implies that the defendants are not to be liable beyond what is necessary to treat the plaintiff for the injury of November 27, 1991. If there be any confusion on that matter, we affirm the order of the trial judge and amend only by providing explicitly that the defendants shall not be liable for any medical treatment not related to the previous injury.

The plaintiff and the defendants shall comply in all things with the order of the trial court as amended herein.

The costs of this appeal are taxed to the defendants.

John K. Byers, Senior Judge

CONCUR:

Frank F. Drowota, III, Justice

William S. Russell, Special Judge

IN THE SUPREME COURT OF TENNESSEE

AT NASHVILLE

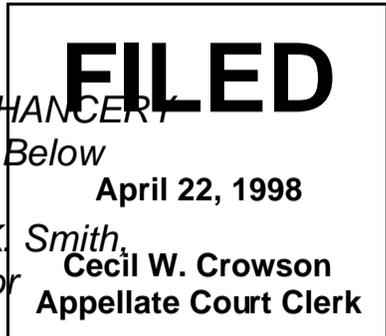
RALPH D. WEST,
Plaintiff/Appellee

vs.

SONIC DRIVE-IN and ANCO
INTERSTATE INSURANCE CO.,
Defendants/Appellants

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SMITH CHANCERY
No. 5463 Below
April 22, 1998
Hon. C. K. Smith,
Chancellor
Cecil W. Crowson
Appellate Court Clerk



No. 01S01-9704-CH-00099
AFFIRMED AS AMENDED

JUDGMENT ORDER

This case is before the Court upon the entire record, including the order of referral to the Special Workers' Compensation Appeals Panel, and the Panel's Memorandum Opinion setting forth its findings of fact and conclusions of law, which are incorporated herein by reference.

Whereupon, it appears to the Court that the Memorandum Opinion of the Panel should be accepted and approved; and

It is, therefore, ordered that the Panel's findings of fact and conclusions of law are adopted and affirmed, and the decision of the Panel is made the judgment of the Court.

Costs will be paid by Defendants/Appellants and their Surety, for which execution may issue if necessary.

IT IS SO ORDERED on April 22, 1998.

PER CURIAM